

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|--------------------------|
| CHRISTOPHER LISOWSKI, and |) | |
| ROBERT GARNER, individually and on |) | |
| <i>behalf of all others similarly situated,</i> |) | |
| |) | |
| Plaintiffs, |) | |
| v. |) | Civil No. 19-1339 |
| |) | |
| HENRY THAYER COMPANY, INC., |) | |
| |) | |
| Defendant. |) | |

ORDER

AND NOW, this 17th day of November, 2020, for the reasons stated in the Opinion accompanying this Order, it is hereby ORDERED that Defendant Henry Thayer Company, Inc.’s Motion to Dismiss Plaintiffs’ Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6), ECF No. 6, is DENIED in part, and GRANTED, in part, as follows.

1. The Motion is GRANTED as to Plaintiff Robert Garner’s claims because this Court lacks personal jurisdiction over Defendant. Robert Garner’s breach of express warranty claim (Count III), and Maryland Consumer Protection Act claims (Count VII) are dismissed.

2. The Motion is GRANTED as to Plaintiff Christopher Lisowski’s request for injunctive relief. Mr. Lisowski’s request for injunctive relief is dismissed, with prejudice.

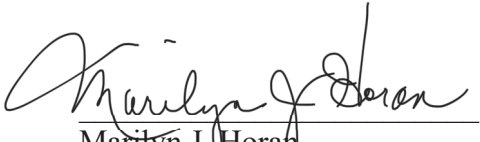
3. The Motion is GRANTED as to Mr. Lisowski’s breach of express warranty claim (Count III). Mr. Lisowski’s breach of express warranty claim is dismissed, with prejudice.

4. The Motion is DENIED as to Mr. Lisowski’s unjust enrichment claim (Count IV).

5. The Motion is DENIED in part, and GRANTED, in part, as to Mr. Lisowski's claim pursuant to Pennsylvania's Unfair Trade Practices and Consumer Protection Law (UTPCPL) (Count I), as follows:

- a. The Motion is DENIED as to the two Dry Mouth Products Mr. Lisowski purchased, Peppermint Dry Mouth Spray and Tangerine Slippery Elm Lozenges.
- b. The Motion is GRANTED as to all other products and claims under the UTPCPL.

IT IS FURTHER ORDERED that Mr. Lisowski is granted leave to file an amended complaint to properly allege the timing of Thayer's conduct and to specifically identify each product that he purchased at a time when the product label did not disclose synthetic ingredients contained within the product. Said Amended Complaint to be filed no later than November 30, 2020. Defendant shall file an answer or response within 14 days of the filing of an amended complaint. If no amended complaint is filed by November 30, 2020, Defendant shall file an answer to the Amended Complaint by December 14, 2020.


Marilyn J. Horan
United States District Court Judge